

MINUTES

Workforce Housing Study

Representative David Lust, Chair
Senator Ryan Maher, Vice Chair



Second Meeting, 2017 Interim
Tuesday, August 01, 2017

Room 413 – State Capitol
Pierre, SD

The second meeting of the Workforce Housing Interim Study was called to order by Representative Lust at 10:00 a.m. (CDT) on August 1, 2017, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Terri Haverly and Jeff Monroe; Representatives Roger Chase, Sean McPherson, Sue Peterson (via telephone), Kyle Schoenfish, Jamie Smith, Charles Turbiville, and Susan Wismer (via telephone); Senator Ryan Maher, Vice Chair; and Representative David Lust, Chair. Members excused: Senator Kevin Killer and Representative Jason Kettwig.

Staff members present included Clare Charlson, Principal Research Analyst; Emily Kerr, Legislative Attorney; Jeff Mehlhaff, Fiscal Analyst; and Paul Giovanetti, Senior Legislative Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://sdlegislature.gov>.

Approval of the Minutes

A MOTION WAS MADE BY REPRESENTATIVE TURBIVILLE AND SECONDED BY REPRESENTATIVE CHASE TO APPROVE THE MINUTES OF THE JUNE 13, 2017, WORKFORCE HOUSING INTERIM STUDY COMMITTEE MEETING. The motion prevailed unanimously on a voice vote.

Opening Remarks

Representative David Lust stated this will be the last meeting at which the committee will take testimony on workforce housing. The next meeting will be focused on proposed legislation, and he encouraged the committee members to begin thinking about what they would like any proposed legislation to entail.

Workforce Housing Issues Confronting SD Communities

Ms. Rita Anderson, DeSmet Development Corporation, DeSmet, stated the city of DeSmet is lacking workforce housing. She explained that the city connected with the Home Address Plus Program and began having local meetings in the community. The Home Address Plus Program helped identify resources that could be brought into the community. The Home Address Plus Program enabled DeSmet to apply for grants and once approved, the community began building homes. Within a year, four townhomes were built and now have residents in them. The local community foundation has also begun a workforce housing community fund.

Economic development has changed over the years. It was about bringing in businesses, but now the focus is on housing for the workers. For school enrollments to grow and families to remain in communities, the housing market needs to grow both in owner-occupied and rental housing. Most developers are busy in the larger communities because of the higher profit margins. There is a need for a full-time housing office and director to provide people with information on housing in the community.

Ms. Anderson stated that the South Dakota Housing Opportunity Fund is critical for small communities to continue to develop workforce housing. The Governor's House Program is a good program; however, the cost keeps rising every year and it is hard to work with the income requirements for the program. Possible legislative action from the committee could improve this program.

The Bulldoze, Build, and Beautify Program is another good program, but the city does not own any properties to be torn down so DeSmet cannot participate in the program. The last housing development project in DeSmet utilized tax increment financing, but the city is now at the ceiling of the allowable debt limit.

Representative Sean McPherson asked how the city chose the individuals allowed to occupy the new homes from among the seventeen applicants. Ms. Anderson replied that initially the plan was to offer them on a first come first serve basis. However, the community ended up selecting names out of a hat.

Representative McPherson asked about the job description of the community coaches for the city. Ms. Anderson replied that the community coaches came from the Home Address Plus Program. These trained individuals meet with a local community team to assist them in bringing resources to the community.

Representative Charles Turbiville asked what the final cost was on the four units built. Ms. Anderson replied that the community received a \$300,000 grant, and the final cost was \$650,000 which amounted to under \$200,000 for each unit. There was no property cost, and infrastructure to the property was already in place.

Representative Jamie Smith asked if the units were leased or sold to the occupants. Ms. Anderson replied the decision was made to keep the property owner as the DeSmet Housing Authority and lease the units for \$750 a month.

Representative Susan Wismer asked if the housing project was a former rural development project. Ms. Anderson replied that this was a new project but the DeSmet Housing Development Authority was created through the HUD program.

Workforce Housing Issues Confronting Developer

Mr. Nick Tilsen, Thunder Valley Community Development Corporation, Porcupine, stated the community development began with a group of young adults who wanted to make Pine Ridge a better place to live and raise a family. The challenges of living on the Pine Ridge Reservation are well known. The reservation has a problem with poverty yet tribal members continue to come back to the reservation because of land, community, and culture. The first problem identified is the lack of housing which needs to be addressed if the community wants to have a future. Family members will always take care of other family members so the reservation has no public homelessness issue. Mr. Tilsen reviewed the history of the development corporation, the economic impact the corporation will have on the area, and recommendations to the committee.

Representative McPherson asked if workforce housing was taken care of, would the unemployment rate on the Pine Ridge Reservation decrease. Mr. Tilsen replied that in addition to developing housing, the corporation is developing retail space. He stated that Pine Ridge residents receive \$23 million in public assistance benefits annually, yet the reservation does not have a grocery store. The first goal is to meet the basic needs of the local community and in doing so, create new jobs.

Representative Kyle Schoenfish asked if there are businesses wanting to come into the planned retail space. Mr. Tilsen replied that businesses have been in contact and want to come in and develop. However, the corporation is not considering businesses that pay minimum wage, but rather is looking at businesses that pay a livable wage to their employees.

Representative Roger Chase asked how many homes will be developed on thirty-four acres on the reservation. Mr. Tilsen stated they will be developing 45-50 single family homes, 60 multi-family units, and 12-15 town homes. There is also opportunity for expansion in the future.

Representative Lust asked if the proposed road and sanitary district will follow state or tribal laws. Mr. Tilsen stated all civil matters will be governed by tribal laws but the development is looking for reciprocity and is modeling everything after state law. Any challenges would go through the tribal court system.

Ms. Joan Franken, Costello Companies, Sioux Falls, stated the company has been in the affordable housing business for over forty years with a focus on the apartment industry. The company has used tax credits and the South Dakota Housing Opportunity Fund. The South Dakota Housing Opportunity Fund is an important resource for smaller communities. All the Costello Company properties have been successful despite experiencing challenges. The tax credit program for affordable housing is a technical program and has three challenges: expenses, the technical nature of the program, and infrastructure. Workforce housing is a problem across the state and the state is limited on the amount of federal tax credits it receives.

Mr. Shawn Pritchett, Costello Companies, Sioux Falls, stated the company has several properties that came out of the tax credit program but still are affordable, low-income housing because of the USDA regulations.

Representative Lust asked if the business model the company uses is for a certain sized apartment complex, how the allocation of tax credits is determined through the South Dakota Housing Development Authority (SDHDA), and the number of years to which the deed is restricted. Ms. Franken replied that managing an apartment complex under 16 units and having it be approved for the tax credit is difficult. The SDHDA has a competitive scoring criteria with points based on what is built. The top scoring applications receive the funds; however, no more than 25% of the federal funding can go to a single developer, no more than 50% of the federal funding can go to a single community, and no more than 20% of the federal funding can go to a single project. The deed restrictions last for forty years.

Representative Chase asked if the company has investors in South Dakota or are they outside the state. Ms. Franken replied that none of their investors are in South Dakota and most of the company's business goes to Wells Fargo in Minnesota or North Carolina.

Representative Susan Wismer asked about management challenges, specifically whether individuals are not prepared to take on this challenge or if state laws make it more difficult. Mr. Pritchett replied that the company has properties scattered throughout four states. Most of the properties began as locally owned apartments that provided affordable housing for low-income individuals. The owners are now retiring and nobody wants to acquire the property. Owners need to be educated on property management because of the extensive federal requirements. Small operators cannot continue to deal with the federal regulations.

Bulldoze, Build, and Beautify

Mr. Scott Stern, Commissioner, Governor's Office of Economic Development (GOED), recognized that workforce housing is important to the state, and GOED needs to develop businesses, a workforce to fill the jobs, and workforce housing. The planning districts will play a vital role in the new Bulldoze, Build, and Beautify Program. With this program, infrastructure is already present, and the community is gaining capital on the established infrastructure.

Mr. Aaron Scheibe, Deputy Commissioner, Governor's Office of Economic Development, stated that workforce housing is a new area for GOED, and presented information on the new program to the committee. ([Document #1](#) and [Document #2](#)).

Representative Schoenfish asked if GOED has reached out to the local communities to promote the new program. Mr. Scheibe replied the community development division has been actively promoting the new program and talking to the planning districts.

Representative Schoenfish asked if there is a plan for a similar program for commercial properties. Mr. Scheibe stated the focus is on residential properties which can impact the workforce housing issue, but a similar program for commercial properties could be a future idea.

Representative Lust asked how many of the 3,000 properties identified will meet the program's criteria. Mr. Scheibe replied the federal regulations require the properties to be owned by cities or counties. Commissioner Stern stated the program will open the opportunity for cities to have the conversation with private property owners who might not be able to financially update the property and could sell the property to the local government.

Representative Wismer stated she has talked to communities in her legislative district and none are planning to participate in the program because of the complexity of the federal requirements. She asked how the requirements will be simplified at the state level to make it easier for a community to participate. Mr. Scheibe replied the program must comply with the federal regulations, and the plan is for the communities to work with the planning districts in the management of this program.

Home Address, A Rural Housing Program

Mr. Mike Knutson, MAK(e) Strategies, Sioux Falls, provided information on the Home Address Plus Program. He stated that housing is vital for a workforce. The program partners with leaders in the community to develop workforce housing. The community needs to have both the financial and the human capacity for workforce housing. The South Dakota Housing Opportunity Fund is vital for small communities. The Home Address Plus Program requires communities to conduct a housing study and begin community engagement meetings with community members and leaders. The program helps establish strong networks and provides coaching. The coaches assist the community in building networks with other communities and state agencies. Additionally, the Home Address Plus Program has an online community for information sharing, webinars, and the facilitation of face to face gatherings with other communities.

Senator Terri Haverly asked with the South Dakota Housing Development Authority, and now GOED's Bulldoze, Build and Beautify program, along with everything else that is out there for communities to use, what is the value of the Home Address Plus Program? Mr. Knutson replied that the Home Address Plus Program is not about providing a home program for the community, but is focused on getting the community involved and teaching the community how to access the different programs that are available.

Tax Increment Financing (TIF) and Workforce Housing

Mr. Michael Houdyshell, Director, Division of Property and Special Taxes, Department of Revenue, presented information on tax increment financing (TIF) to the committee ([Document #3](#)).

Representative Turbiville asked if the amount of a TIF counts against a city's total bonded indebtedness. Mr. Houdyshell replied that the amount does count.

Senator Maher asked which entity determines if the TIF district is classified as a local or economic development TIF district. Mr. Houdyshell stated the Department of Revenue currently verifies the tax increment base, but the local entity currently determines the type of TIF district. The TIF workgroup that was established by the Department of Revenue has recommended that in the future, the local government contacts the department and determines the type of TIF district prior to application.

Representative Chase asked if both small communities and large communities can create TIF districts for housing. Mr. Houdyshell stated the statute needs to be clarified because some communities are establishing TIF districts for housing infrastructure and classifying them as economic development districts while others are classifying them as local districts. The difference between the two types impacts the funding for schools.

Representative Lust asked which agency has oversight of TIFs. Mr. Houdyshell stated the Department of Revenue only certifies the base value of the TIF. The proposed guidelines will be to have the discussion between the department and the local entity prior to the creation of the TIF district. The department does not want to be policing TIF districts, however, the classification process needs to be the same and equal for all throughout the state.

Representative Lust asked what was the average life of a TIF. Mr. Houdyshell replied the average life of a TIF is between 15 and 17 years.

Tax Credit and Low Income Housing

Mr. Mark Lauseng, Executive Director, South Dakota Housing Development Authority (SDHDA), reviewed information on the Housing Tax Credit Program ([Document #4](#)). **Ms. Lorraine Polak, Director, Rental Housing Development, SDHDA**, reviewed the low-income housing process for developers.

Representative Schoenfish asked what type of programs or credits are available for individuals with disabilities. Ms. Polak replied the homeowner rehabilitation program is available through SDHDA. All federal housing programs require rental properties to include a certain number of units that are accessible to individuals with disabilities.

Representative Lust asked how many developers in South Dakota are developing low-income housing. Mr. Lauseng replied the state has two in-state developers; however, there are several low-income housing owners.

Tax Deed and Tax Deed Sales

Ms. Deb Tridle, Lawrence County Treasurer, Deadwood, and Ms. Sheri Koeck, Hand County Treasurer, Miller, reviewed the history of the tax certificates and the tax deed flow chart ([Document #5](#)). Five counties in the state sell the tax certificates; however, the interest rate can be bid down. When a county holds onto the certificate, the county gets to keep the interest at 10%.

Senator Maher asked if the process to gain the title for the property takes longer than three years. Ms. Koeck explained the process to get the title for the property once either the individual or county has the tax certificate, and stated the average time is around five to six years.

Representative Lust stated the redemption period does not make sense considering the property owner has been delinquent on taxes for a full year. Ms. Koeck replied the current tax deed laws were written in the 1930's, and they need to be updated to reflect the advancement of technology.

Representative Wismer asked how many delinquent tax cases involve an individual over the age of 70. Ms. Tridle stated she currently has five properties in Lawrence County that are owned by an individual over the age of 70. Ms. Koeck stated the property must be inhabited and once the owner learns that their descendants will be required to pay the delinquent tax bill once they inherit the property, the owners end up paying the property taxes, not wanting to burden their families.

Workforce Housing Legislation from Neighboring States

Ms. Emily Kerr, Legislative Attorney, Legislative Research Council, presented information on workforce housing legislation in surrounding states ([Document #6](#)). She discussed programs that exist in Iowa, Nebraska and Minnesota. The programs provide funding or tax credits to developers who develop workforce housing through new constructions or rehabilitating existing structures in communities with workforce housing needs.

Representative McPherson asked if there was a clear definition of workforce housing in statute. Mr. Lauseng stated that the Housing Opportunity Fund uses 120% of the average median income of the area when setting income levels for their programs and that is the only definition that the state currently has.

Public Testimony

Ms. Julie Johnson, Aberdeen, testified on the necessity of housing programs and made recommendations to the committee.

Mr. David Owen, Executive Director, South Dakota Chamber of Commerce and Industry, testified on the need for TIFs so local communities can provide workforce housing.

Ms. Barbara Garcia, Community Development Manager, Rapid City, provided information on low-income individuals who need housing. She also provided information on the current housing situation in Rapid City and how the city is addressing the problem.

Mr. Jedrey Baumann, Baumann Lumber, Inc., Pierre, provided the committee with a private industry perspective. He said the first goal is to define affordable housing, and noted that affordable housing can only be accomplished by decreasing the costs, regulations, taxes, and fees associated with these building projects. The builder must make a profit to take care of the builder's employees and make a living. The solution is to use tax increment financing for the infrastructure cost, have local banks finance the project, and encourage incentives for the consumer.

Committee Discussion

The committee discussed the next meeting and the work that needs to be completed before that meeting. The committee will review the topics that have been discussed, decide what the committee can impact with a focus on two or three items, and review potential legislation at the last meeting.

Adjourn

A MOTION WAS MADE BY REPRESENTATIVE SMITH AND SECONDED BY REPRESENTATIVE McPHERSON THAT THE WORKFORCE HOUSING INTERIM STUDY COMMITTEE MEETING BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The committee adjourned at 3:51pm